

Amendments to Senate Bill No. 105
1st Reading Copy

Requested by Senator Greg Lind

For the Senate Taxation Committee

Prepared by Lee Heiman
March 28, 2007 (3:04pm)

1. Title, line 5.

Following: "A"

Insert: "3-YEAR"

Following: "FOR"

Insert: "NEW"

Following: "EQUIPMENT"

Insert: "SPECIFICALLY"

2. Title, line 6.

Following: "CAPTURE,"

Strike: "REUSE"

Insert: "TRANSPORT"

Following: "OR"

Insert: "GEOLOGICALLY"

Following: "DIOXIDE"

Insert: "; PROVIDING THAT CARBON DIOXIDE SEQUESTRATION EQUIPMENT
IS TAXED AS CLASS FIVE PROPERTY; AMENDING SECTION 15-6-135,
MCA; AND PROVIDING A CONTINGENT VOIDNESS PROVISION"

3. Page 1, lines 10 and 11.

Following: "exempt"

Insert: " -- 3 years"

Strike: "All associated" on line 10 through "dioxide" on line 11

Insert: "For the first 3 tax years after the property becomes
operational, all new carbon dioxide sequestration equipment,
as defined in 15-6-135,"

4. Page 1, line 13.

Insert: "Section 2. Section 15-6-135, MCA, is amended to read:

"15-6-135. Class five property -- description -- taxable
percentage. (1) Class five property includes:

(a) all property used and owned by cooperative rural
electrical and cooperative rural telephone associations organized
under the laws of Montana, except property owned by cooperative
organizations described in 15-6-137(1)(a);

(b) air and water pollution control equipment as defined in
this section;

(c) new industrial property as defined in this section;

(d) any personal or real property used primarily in the

production of gasohol during construction and for the first 3 years of its operation;

(e) all land and improvements and all personal property owned by a research and development firm, provided that the property is actively devoted to research and development;

(f) machinery and equipment used in electrolytic reduction facilities;

(g) all property used and owned by persons, firms, corporations, or other organizations that are engaged in the business of furnishing telecommunications services exclusively to rural areas or to rural areas and cities and towns of 1,200 permanent residents or less;

(h) except as provided in [section 1], carbon dioxide sequestration equipment as defined in this section.

(2) (a) "Air and water pollution control equipment" means that portion of identifiable property, facilities, machinery, devices, or equipment designed, constructed, under construction, or operated for removing, disposing, abating, treating, eliminating, destroying, neutralizing, stabilizing, rendering inert, storing, or preventing the creation of air or water pollutants that, except for the use of the item, would be released to the environment. Reduction in pollutants obtained through operational techniques without specific facilities, machinery, devices, or equipment is not eligible for certification under this section.

(b) Requests for certification must be made on forms available from the department of revenue. Certification may not be granted unless the applicant is in substantial compliance with all applicable rules, laws, orders, or permit conditions. Certification remains in effect only as long as substantial compliance continues.

(c) The department of environmental quality shall promulgate rules specifying procedures, including timeframes for certification application, and definitions necessary to identify air and water pollution control equipment for certification and compliance. The department of revenue shall promulgate rules pertaining to the valuation of qualifying air and water pollution control equipment. The department of environmental quality shall identify and track compliance in the use of certified air and water pollution control equipment and report continuous acts or patterns of noncompliance at a facility to the department of revenue. Casual or isolated incidents of noncompliance at a facility do not affect certification.

(d) A person may appeal the certification, classification, and valuation of the property to the state tax appeal board. Appeals on the property certification must name the department of environmental quality as the respondent, and appeals on the classification or valuation of the equipment must name the department of revenue as the respondent.

(3) (a) "New industrial property" means any new industrial

plant, including land, buildings, machinery, and fixtures, used by new industries during the first 3 years of their operation. The property may not have been assessed within the state of Montana prior to July 1, 1961.

(b) New industrial property does not include:

(i) property used by retail or wholesale merchants, commercial services of any type, agriculture, trades, or professions unless the business or profession meets the requirements of subsection (4)(b)(v);

(ii) a plant that will create adverse impact on existing state, county, or municipal services; or

(iii) property used or employed in an industrial plant that has been in operation in this state for 3 years or longer.

(4) (a) "New industry" means any person, corporation, firm, partnership, association, or other group that establishes a new plant in Montana for the operation of a new industrial endeavor, as distinguished from a mere expansion, reorganization, or merger of an existing industry.

(b) New industry includes only those industries that:

(i) manufacture, mill, mine, produce, process, or fabricate materials;

(ii) do similar work, employing capital and labor, in which materials unserviceable in their natural state are extracted, processed, or made fit for use or are substantially altered or treated so as to create commercial products or materials;

(iii) engage in the mechanical or chemical transformation of materials or substances into new products in the manner defined as manufacturing in the North American Industry Classification System Manual prepared by the United States office of management and budget;

(iv) engage in the transportation, warehousing, or distribution of commercial products or materials if 50% or more of an industry's gross sales or receipts are earned from outside the state; or

(v) earn 50% or more of their annual gross income from out-of-state sales.

(5) (a) "Carbon dioxide sequestration equipment" means identifiable equipment designed and constructed primarily for the purpose of the capture, transport, or geological sequestration of carbon dioxide that would otherwise be released into the atmosphere. Property that results in a reduction in carbon dioxide emissions through operational techniques, facility improvement, or without the use of specifically designed and constructed equipment is not carbon dioxide sequestration equipment classified under this section.

(b) The department shall provide, by rule, specific criteria necessary for the classification of carbon dioxide sequestration equipment. The rules relating to carbon dioxide sequestration must be adopted based upon rules adopted by the board of environmental review pursuant to [section 2 of Senate Bill No.

218]. The rules must also address application procedures, definitions, valuation of the equipment, and other matters that the department considers necessary for the administration of the classification of carbon dioxide sequestration equipment.

~~(5)~~(6) Class five property is taxed at 3% of its market value."

{Internal References to 15-6-135:

15-1-101x	15-6-141x	15-6-141x	15-6-156x
15-6-156x	15-6-156x	15-24-1401x	15-24-2404x
20-9-407x}"			

Renumber: subsequent section

5. Page 1, line 15.

Strike: "6, part 2" in both places

Insert: "32" in both places

6. Page 1, line 16.

Insert: "NEW SECTION. Section 4. Contingent voidness. If Senate Bill No. 218 is not passed and approved, then [this act] is void."

- END -